

SEMINOLE COUNTY GOVERNMENT AGENDA MEMORANDUM

SUBJECT: Authorize Release of the Right-of-Way Utilization Permit Maintenance Bond for the CNL Property Phase 1

DEPARTMENT: Planning and Development **DIVISION:** Development Review

AUTHORIZED BY: Dori DeBord

CONTACT: Lee Shaffer

EXT: 7346

MOTION/RECOMMENDATION:

Authorize the release of the CNL Property Phase 1 Right-of-Way Utilization Permit Maintenance Bond #104688486 in the amount of \$7,087.31 for the CNL Property Phase 1 road improvements.

District 2 Michael McLean

Lee Shaffer

BACKGROUND:

Section 35.44 (e) of the Seminole County Land Development Code, concerning Additional Required Legal Submittals, required the CNL Property Phase 1 project to have a Right-of-Way Utilization Permit Maintenance Bond, specifically, Maintenance Bond #104688486 for \$7,087.31 (Travelers Casualty and Surety Company of America), to insure against any significant degradation in operating conditions resulting from any defective work covered by this bond. Staff conducted a two year maintenance inspection for this project located at CR 427 and US 17/92 and determined the improvements to be satisfactory.

STAFF RECOMMENDATION:

Staff recommends that the Board authorize the release of the CNL Property Phase 1 Right-of-Way Utilization Permit Maintenance Bond #104688486 in the amount of \$7,087.31 for the CNL Property Phase 1 road improvements.

ATTACHMENTS:

1. Right-of-Way Utilization Permit Maintenance Bond
2. Power of Attorney

Additionally Reviewed By:

■ County Attorney Review (Kathleen Furey-Tran)

RIGHT-OF-WAY USE PERMITTING

RIGHT-OF-WAY UTILIZATION PERMIT MAINTENANCE BOND

(Streets, Curbs, Storm Drains)

104688486

KNOW ALL MEN BY THESE PRESENTS:

That we National Retail Properties, LP, whose address is 450 S. Orange Ave. #900, Orlando, FL 32801, hereinafter referred to as "PRINCIPAL" and Travelers Property and Casualty Company of America, hereinafter referred to as "SURETY" are held and firmly bound unto Seminole County, a political subdivision of the State of Florida, whose address is Seminole County Services Building, 1101 East First Street, Sanford, Florida 32771, hereinafter referred to as the COUNTY in the sum of \$ 7,087.31 for the payment of which we bind ourselves, heirs, executors, successors and assigns, jointly and severally, firmly by these presents:

WHEREAS, PRINCIPAL has constructed certain improvements, including streets, curbs, storm drains and other appurtenances in that certain public right-of-way known as County Road 427, recorded in Plat Book 571, Page(s) 412, Public Records of Seminole County, Florida; and

WHEREAS, the aforesaid improvements were made pursuant to certain plans and specifications dated June 27, 2006, and filed with the County Engineer of Seminole County; and

— WHEREAS, PRINCIPAL is obligated to protect the COUNTY against any defects resulting from faulty materials or workmanship of said improvements for a period of two (2) years from July 13, 2007;

— NOW, THEREFORE, the condition of this obligation is such that if PRINCIPAL shall promptly and faithfully protect the COUNTY against any defects resulting from faulty materials or workmanship of the aforesaid improvements for a period of (2) years from July 13, 2007, then this obligation shall be null and void, otherwise it shall remain in full force and effect.

The County Engineer shall notify the PRINCIPAL in writing of any defect for which the PRINCIPAL is responsible and shall specify in said notice a reasonable period of time within which PRINCIPAL shall have to correct said defect.

The SURETY unconditionally covenants and agrees that if the PRINCIPAL fails to perform, within the time specified, the SURETY, upon 30 days written notice from COUNTY, or its authorized agent or officer, of the default will forthwith correct such defect or defects and pay the cost thereof, including, but not limited to engineering, legal and contingent cost. Should the SURETY fail or refuse to correct said defects, the COUNTY, in view of the public interest, health, safety, welfare and factors involved, and the consideration in approving the said permit shall have the right to resort to any and all legal remedies against the PRINCIPAL and SURETY and either, both at law and in equity, including specifically, specific performance to which the PRINCIPAL and SURETY unconditionally agree.

The PRINCIPAL and SURETY further jointly and severally agree that the COUNTY at its option, shall have the right to correct said defects resulting from faulty materials or workmanship, or, pursuant to public advertisement and receipt of bids, caused to be corrected any defects or said defects in case the PRINCIPAL shall fail or refuse to do so, and in the event the COUNTY should exercise and give effect to such right, the PRINCIPAL and the SURETY shall be jointly and severally hereunder to reimburse the COUNTY the total cost thereof, including, but not limited to, engineering, legal and contingent cost, together with any damages either direct or consequent which may be sustained on account of the failure of the PRINCIPAL to correct said defects.

IN WITNESS WHEREOF, the Principal and the Surety have executed these presents this the 12th day of July, 20 07.

Name and Address: National Retail Properties, LP (Seal)

by NNN GP Corp., a Delaware PRINCIPAL corp, its general partner

By: [Signature] Its: VP [Initials]
(If a corporation)

Attest: [Signature] Its: ASST. DEV. MGR.
(If a corporation)

Name and Address: Travelers Casualty and Surety Company of America (Seal)

SURETY

By: [Signature] Its: Attorney-in-Fact
Its Attorney-in-Fact

Attest: [Signature] [Signature]

(App E, LDC, through Supp 16).



POWER OF ATTORNEY

Farmington Casualty Company
 Fidelity and Guaranty Insurance Company
 Fidelity and Guaranty Insurance Underwriters, Inc.
 Seaboard Surety Company
 St. Paul Fire and Marine Insurance Company

St. Paul Guardian Insurance Company
 St. Paul Mercury Insurance Company
 Travelers Casualty and Surety Company
 Travelers Casualty and Surety Company of America
 United States Fidelity and Guaranty Company

Attorney-In Fact No. 218251

Certificate No. 001422711

KNOW ALL MEN BY THESE PRESENTS: That Seaboard Surety Company is a corporation duly organized under the laws of the State of New York, that St. Paul Fire and Marine Insurance Company, St. Paul Guardian Insurance Company and St. Paul Mercury Insurance Company are corporations duly organized under the laws of the State of Minnesota, that Farmington Casualty Company, Travelers Casualty and Surety Company, and Travelers Casualty and Surety Company of America are corporations duly organized under the laws of the State of Connecticut, that United States Fidelity and Guaranty Company is a corporation duly organized under the laws of the State of Maryland, that Fidelity and Guaranty Insurance Company is a corporation duly organized under the laws of the State of Iowa, and that Fidelity and Guaranty Insurance Underwriters, Inc. is a corporation duly organized under the laws of the State of Wisconsin (herein collectively called the "Companies"), and that the Companies do hereby make, constitute and appoint

Trenace Diane Clement, Sheila Dianne Kenyon, Sandra Scott, and J. Cory Broadway

of the City of Maitland, State of Florida, their true and lawful Attorney(s)-in-Fact, each in their separate capacity if more than one is named above, to sign, execute, seal and acknowledge any and all bonds, recognizances, conditional undertakings and other writings obligatory in the nature thereof on behalf of the Companies in their business of guaranteeing the fidelity of persons, guaranteeing the performance of contracts and executing or guaranteeing bonds and undertakings required or permitted in any actions or proceedings allowed by law.

IN WITNESS WHEREOF, the Companies have caused this instrument to be signed and their corporate seals to be hereto affixed, this 30th day of January, 2007.

Farmington Casualty Company
 Fidelity and Guaranty Insurance Company
 Fidelity and Guaranty Insurance Underwriters, Inc.
 Seaboard Surety Company
 St. Paul Fire and Marine Insurance Company

St. Paul Guardian Insurance Company
 St. Paul Mercury Insurance Company
 Travelers Casualty and Surety Company
 Travelers Casualty and Surety Company of America
 United States Fidelity and Guaranty Company



State of Connecticut
 City of Hartford ss.

By:

George W. Thompson
 George W. Thompson, Senior Vice President

On this the 30th day of January, 2007, before me personally appeared George W. Thompson, who acknowledged himself to be the Senior Vice President of Farmington Casualty Company, Fidelity and Guaranty Insurance Company, Fidelity and Guaranty Insurance Underwriters, Inc., Seaboard Surety Company, St. Paul Fire and Marine Insurance Company, St. Paul Guardian Insurance Company, St. Paul Mercury Insurance Company, Travelers Casualty and Surety Company, Travelers Casualty and Surety Company of America, and United States Fidelity and Guaranty Company, and that he, as such, being authorized so to do, executed the foregoing instrument for the purposes therein contained by signing on behalf of the corporations by himself as a duly authorized officer.

In Witness Whereof, I hereunto set my hand and official seal.
 My Commission expires the 30th day of June, 2011.



Marie C. Tetreault
 Marie C. Tetreault, Notary Public